UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,428	09/05/2003	John F. Poccia III	J&J 5072 US NP	7571

27777 7590 04/11/2006

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER	
CHAPMAN, GINGER T	

ART UNIT	PAPER NUMBER
3761	

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/656,428	POCCIA ET AL.	
	Examiner	Art Unit	
	Ginger T. Chapman	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) *11 and 12* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-13* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I in the reply filed on 2 February 2006 is acknowledged.

Applicant's election without traverse of species 1, adhesive bandage, in the reply filed on 2 February 2006 is acknowledged, accordingly claims 11 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species; currently, claim 1 is generic.

Status of the claims

By way of Applicants' amendment filed 2 February 2006, claims 1-13 are pending in the application; claims 14-18 are cancelled, claims 11 and 12 are withdrawn from consideration as drawn to a nonelected species, claims 1-10 and 13 are examined on the merits.

Withdrawn objections

The objection to claim 2 as lacking antecedent basis with respect to the fibers is withdrawn in view of Applicants' amendment.

Claim Rejections - 35 USC § 102 / Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3, 4, 6, 9, 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Pike et al (US 6,352,948).

Claim 1. As seen in Figure 1, Pike et al disclose an absorbent article (10) comprising: a absorbent nonwoven fabric (12) comprising fibers and having a density from about 0.01 g/cc to about 0.05 g/cc (col. 6, ll. 27-39), said nonwoven fabric having a first major surface and a second major surface (fig. 1); and an apertured film (14) secured to at least one major surface (16) (col. 9, l. 15) of the nonwoven fabric (12).

Claim 3. Pike et al disclose fibers comprising the nonwoven fabric (12) are bicomponent fibers (col. 6, l. 63 and col. 3, ll. 41-42).

Claim 4. Pike et al disclose the nonwoven fabric (12) comprises a blend (col. 4, l. 9) of from about 70% to about 95% by weight of synthetic non-absorbent fibers and from about 5% to about 30% by weight of absorbent fibers (col. 3, ll. 56-58) and has a basis weight ranging from about 30 gsm to about 150 gsm (col. 6, ll. 38-39).

Claim 6. Pike et al disclose the article (10) is a wound contacting pad for an adhesive bandage (col. 5, l. 38).

Claim 9. In Figure 2 Pike et al disclose a top layer (24) secured to the second major surface (col. 9, ll. 43) of said nonwoven fabric (22).

Claim 10. Pike et al disclose the top layer (14) material is a microporous film (col. 8, l. 65).

Claim 13. Pike et al disclose the article (10) is an adhesive bandage (col. 5, l. 38).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pike in view of Utz (EP 0,403,187 A1).

Claim 2. Pike discloses the nonwoven but does not expressly disclose fibers comprising the nonwoven selected from the group consisting of rayon, cotton, wood pulp, and combinations thereof. Utz teaches fibers selected from the group consisting of rayon (col. 2, l. 27). Utz, at column 2, lines 5-7 expresses the desire and clear motivation for a nonwoven fibrous layer consisting of a material that can be bonded to the film. In view of the teachings of Utz, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the nonwoven fabric of Pike et al consisting of rayon as taught by Utz, since Utz states at column 1, lines 4-5 that using such a nonwoven for film bonding produces a surface material especially useful for protective dressings.

Claims 5, and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pike in view of Radel et al (4,342,314).

Claim 5. Pike et al disclose the apertured film but does not expressly disclose a polymeric material selected from the group consisting of ethylene methyl acrylate, polyethylene, metallocene catalyzed polyethylene, polypropylene, and copolymers thereof, and ethylene vinyl acetate copolymers. Radel et al, at column 1, lines 17-27 expresses the desire to provide an apertured film which promotes liquid transport. In figure 4, Radel et al teach the apertured film (20) comprising polyethylene (col. 8, ll. 54-55). In view of the teachings of Radel et al, to form the apertured film of Pike of polyethylene as taught by Radel et al would have been obvious to one having ordinary skill in the art at the time the invention was made since Radel et al teach at

column 12, ll. 54-62 that the apertured film combines the desirable fluid transport and anti-rewet properties with the air permeability and fiber-like feel of nonwoven fibrous webs in a single resilient fluid pervious polymeric web.

Claims 7 and 8. Radel et al teach the open area of the apertured film ranges from about 5 percent to about 30 percent and from about 10 percent to about 25 percent of the total area of the apertured film (col. 8, ll. 62-63).

Response to Arguments

Applicant's arguments filed 2 February 2006 have been fully considered but they are not persuasive.

With regard to claim 1, Applicant submits that nowhere in Pike ('948) is the density of an absorbent article disclosed; as such Pike fails to expressly disclose the claimed density range of Applicants' articles. Further, Pike is silent as to the thickness of the fabrics contemplated therein.

This argument is not persuasive because Pike discloses at column 3, l. 15 that the nonwoven fabric comprising fibers used in the article are formed by the prior art process disclosed in US Patent No. 3,849,241 issued to Butin et al. Butin et al disclose that the nonwoven fabric produced differ in thickness and compactness and therefore density according to the air flow rates and positioning distances of the forming apparatus in relation to the forming screen as fibers are laid to form the fabric (col. 8, ll. 30-35). Butin et al additionally disclose that fluffier fabrics, i.e. lower density fabrics, are produced when fibers are collected at lower flow rates and higher positioning distance and higher density fabrics are produced at higher flow rates

and lower positioning distance. Butin et al further disclose at column 15, ll. 20 to col. 16, l. 25 that the nonwoven fabric can have variation of thickness in the range from 0.0005 to 0.003 inches (0.0127 mm to 0.0762 mm) for thinner nonwoven fabric and 0.05 to 0.5 inches (1.27 mm to 12.7 mm) for thicker fabric. Butin et al finally disclose at col. 19, ll. 25 that the fabrics disclosed are useful as absorption materials used for hygiene, and as disclosed by Pike at col. 3, l. 15, are especially useful as a wound contacting pad for adhesive bandages.

Therefore, the density of the fabric is a result effective variable and discovery of an optimum value of density for a fabric useful for a particular absorbent article in the known process of forming the fabric would be within the routine skill of an ordinary worker in the art and it would therefore have been obvious to one having ordinary skill in the art at the time the invention was made to form the fabric of Pike having the claimed density ranges since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Applicants' arguments with regard to dependent claims 2-10 and 13 have been fully considered but are not persuasive as Applicants' arguments depend entirely on Applicants' arguments regarding the rejection of claim 1, which have been addressed *supra*.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ginger Chapman
Examiner, Art Unit 3761
04/06/06

***

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER